

**IN THE HIGH COURT OF BOMBAY AT GOA
APPEAL FROM ORDER NO. 32 OF 2013**

MR. ANTONIO ALEXANDRINO CORREIA

REP. P.O.A. HOLDER MR. JERON

MASCARENHAS AND ANR.

... Appellants

Versus

MR. UMESH BABURAO SHIRODKAR

AND 2 ORS.

... Respondents

Ms. Smita S. Gawas, Advocate for the Appellants.

CORAM : N.M. JAMDAR, J.

DATE : 5 February 2015

ORAL ORDER :

By this appeal, the appellants challenge the order dated 4 March 2002 passed by the Civil Judge, Senior Division, Bicholim granting an temporary injunction in favour of the respondents no.1 & 2.

2. The respondents no.1 & 2 filed a suit before the Civil Judge, Senior Division, Bicholim for declaration and perpetual injunction. According to respondents no.1 & 2 a Sale Deed was executed in their favour on 11 February 1997 which was registered in the office of sub-registrar on 12 February 1997. According to the respondents no.1 & 2 the appellants started interfering with the possession of the respondents no.1 & 2 on the basis of the Sale Deed which was executed in their favour

on 19 June 2007.

3. The learned Civil Judge, Junior Division after hearing both the sides granted temporary injunction in favour of respondents no.1 & 2 and the appellants were restrained from interfering with the suit plot till disposal of the suit.

4. The present appeal was filed on 8 February 2013. Perusal of the roznama would show that the appeal was not diligently prosecuted. It was dismissed for default, adjourned on several occasions and on the last date it was adjourned till today by way of last chance. Ms. S. Gawas, the learned Counsel for the appellants appears and has made submissions.

5. The submissions of Ms. Gawas are on the merits of challenge in the suit. According to her the Sale Deed executed in favour of the respondents no.1 & 2 is not valid and the agreement in favour of the defendants was prior in time. The case of the appellants is also that the suit plot is purchased by respondents no.1 & 2 by coercion.

6. The learned Civil Judge has rightly found that these questions will have to be considered at the time of trial. The registered Sale Deed in favour of the respondents no.1 & 2 is prior in time to the appellants. No fault can be found with the approach of the learned Civil Judge in giving protection to the respondents no.1 & 2, on the ground that their registered Sale Deed is prior in time. The appellants have allowed the injunction to operate now for more than 2 years. In the

circumstances, there is no warrant to interfere with the impugned order. Appeal from Order is dismissed.

N. M. JAMDAR, J.

NH/-